

By: Nichols, et al.

S.B. No. 15

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the Texas Consumer Privacy Act Phase I; creating  
3 criminal offenses; increasing the punishment for an existing  
4 criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Texas Consumer  
7 Privacy Act Phase I.

8 SECTION 2. Section 11.030, Parks and Wildlife Code, is  
9 amended by amending Subsections (a) and (c) and adding Subsections  
10 (e-1), (e-2), and (e-3) to read as follows:

11 (a) The name and address and a telephone, social security,  
12 driver's license, bank account, credit card, or charge card number  
13 of a person who purchases customer products, licenses, or services  
14 from the department may not be disclosed, sold, rented, or traded  
15 except as authorized under this section or Section 12.0251.

16 (c) The commission by rule shall adopt policies relating to:

17 (1) the release of the customer information; and

18 (2) the use of the customer information by the  
19 department [~~and~~

20 ~~(3) the sale of a mailing list consisting of the names~~  
21 ~~and addresses of persons who purchase customer products, licenses,~~  
22 ~~or services].~~

23 (e-1) The department may disclose statistical data and  
24 compilations of customer information described by Subsection (a) if

1 the information does not reveal information identifying a specific  
2 department customer or a department customer's address, telephone  
3 number, social security number, or driver's license number.

4 (e-2) The department may disclose customer information  
5 described by Subsection (a):

6 (1) to another governmental body, including a law  
7 enforcement entity, as needed to carry out a governmental purpose;

8 (2) if the customer that is the subject of the  
9 information consents in writing to the specific disclosure; or

10 (3) if the information is:

11 (A) part of a record that is considered to be a  
12 public record under Section 31.039; or

13 (B) authorized to be disclosed under Section  
14 31.0391.

15 (e-3) This section does not authorize the department to  
16 disclose information the department is prohibited from disclosing  
17 by other law.

18 SECTION 3. Section 204.011(a), Transportation Code, is  
19 amended to read as follows:

20 (a) The [~~Except as provided by this section or a rule~~  
21 ~~adopted by the commission under this section, the~~] department may  
22 not disclose to any person the name, address, telephone number,  
23 social security account number, driver's license number, bank  
24 account number, credit or debit card number, or charge account  
25 number of a person who:

26 (1) is or has been a subscriber to "Texas Highways"; or

27 (2) has purchased from the department a promotional

1 item described by Section 204.009.

2 SECTION 4. Section 521.0475(a), Transportation Code, is  
3 amended to read as follows:

4 (a) Except as provided by Subsection (b), the department  
5 shall provide a certified abstract of a complete driving record of a  
6 license holder, for a fee of \$20, to the license holder or a person  
7 eligible to receive the information under Sections  
8 730.007(a)(2)(A), (C), and (H) [~~Sections 730.007(a)(2)(A), (D),~~  
9 ~~and (I)~~].

10 SECTION 5. Section 548.601(a), Transportation Code, is  
11 amended to read as follows:

12 (a) A person, including an inspector or an inspection  
13 station, commits an offense if the person:

14 (1) submits information to the department's inspection  
15 database or issues a vehicle inspection report with knowledge that  
16 the submission or issuance is in violation of this chapter or rules  
17 adopted under this chapter;

18 (2) falsely or fraudulently represents to the owner or  
19 operator of a vehicle that equipment inspected or required to be  
20 inspected must be repaired, adjusted, or replaced for the vehicle  
21 to pass an inspection;

22 (3) misrepresents:

23 (A) material information in an application in  
24 violation of Section 548.402 or 548.403; or

25 (B) information filed with the department under  
26 this chapter or as required by department rule;

27 (4) submits information to the department's inspection

1 database or issues a vehicle inspection report:

2 (A) without authorization to issue the report or  
3 submit the information; or

4 (B) without inspecting the vehicle;

5 (5) submits information to the department's inspection  
6 database indicating that a vehicle has passed the applicable  
7 inspections or issues a passing vehicle inspection report for a  
8 vehicle with knowledge that the vehicle has not been repaired,  
9 adjusted, or corrected after an inspection has shown a repair,  
10 adjustment, or correction to be necessary;

11 (6) knowingly submits information to the department's  
12 inspection database or issues a vehicle inspection report:

13 (A) for a vehicle without conducting an  
14 inspection of each item required to be inspected; or

15 (B) for a vehicle that is missing an item  
16 required to be inspected or that has an item required to be  
17 inspected that is not in compliance with state law or department  
18 rules;

19 (7) refuses to allow a vehicle's owner to have a  
20 qualified person of the owner's choice make a required repair,  
21 adjustment, or correction;

22 (8) charges for an inspection an amount greater than  
23 the authorized fee;

24 (9) discloses or sells information about a customer,  
25 vehicle owner, or vehicle to a person other than the department or  
26 the person who is the subject of the information, including a  
27 customer identification number or a customer or vehicle owner's

1 name, address, or phone number; or

2           (10) [~~9~~] performs an act prohibited by or fails to  
3 perform an act required by this chapter or a rule adopted under this  
4 chapter.

5           SECTION 6. Section 730.003, Transportation Code, is amended  
6 by adding Subdivisions (1-a) and (1-b) and amending Subdivision (6)  
7 to read as follows:

8           (1-a) "Aggregate report" means a report created in  
9 response to a request for motor vehicle records by combining  
10 individual motor vehicle records into cross-tabulated subtotals  
11 using defined geographic zones that are at least as large as a zip  
12 code but not larger than a county.

13           (1-b) "Authorized recipient" means a person who is  
14 eligible to receive personal information from an agency in a manner  
15 authorized by this chapter.

16           (6) "Personal information" means information that  
17 identifies a person, including an individual's photograph or  
18 computerized image, social security number, date of birth, [~~driver~~]  
19 identification number, name, address, but not the zip code, e-mail  
20 address, telephone number, and medical or disability information.

21 The term does not include:

22           (A) information on vehicle accidents, driving or  
23 equipment-related violations, or driver's license or registration  
24 status; or

25           (B) information contained in an accident report  
26 prepared under:

27                           (i) Chapter 550; or

1 (ii) former Section 601.004 before  
2 September 1, 2017.

3 SECTION 7. Section 730.006, Transportation Code, is amended  
4 to read as follows:

5 Sec. 730.006. REQUIRED DISCLOSURE WITH CONSENT. Personal  
6 information obtained by an agency in connection with a motor  
7 vehicle record shall be disclosed to a requestor who:

8 (1) is the subject of the information; or

9 (2) demonstrates, in such form and manner as the  
10 agency requires, that the requestor has obtained the written  
11 consent of the person who is the subject of the information.

12 SECTION 8. The heading to Section 730.007, Transportation  
13 Code, is amended to read as follows:

14 Sec. 730.007. PERMITTED DISCLOSURES OF CERTAIN PERSONAL  
15 INFORMATION.

16 SECTION 9. Section 730.007, Transportation Code, is amended  
17 by amending Subsection (a) and adding Subsection (b-1) to read as  
18 follows:

19 (a) Personal information obtained by an agency in  
20 connection with a motor vehicle record may be disclosed to any  
21 requestor by an agency if the requestor:

22 (1) provides the requestor's name and address and any  
23 proof of that information required by the agency; and

24 (2) represents that the use of the personal  
25 information will be strictly limited to:

26 (A) use by the Texas Department of Motor  
27 Vehicles, the Department of Public Safety, the Texas Department of

1 Transportation, a~~+~~

2 ~~[(i) a government agency, including any]~~  
3 court, or a law enforcement agency, in carrying out its functions;

4 ~~[or~~

5 ~~[(ii) a private person or entity acting on]~~  
6 ~~behalf of a government agency in carrying out the functions of the~~  
7 ~~agency;]~~

8 (B) use in connection with a matter of:

9 (i) motor vehicle or motor vehicle operator  
10 safety;

11 (ii) motor vehicle theft;

12 (iii) motor vehicle product alterations,  
13 recalls, or advisories;

14 (iv) performance monitoring of motor  
15 vehicles, motor vehicle parts, or motor vehicle dealers; or

16 (v) ~~[motor vehicle market research~~  
17 ~~activities, including survey research; or~~

18 ~~[(vi)]~~ removal of nonowner records from the  
19 original owner records of motor vehicle manufacturers;

20 (C) ~~[use in the normal course of business by a~~  
21 ~~legitimate business or an authorized agent of the business, but~~  
22 ~~only;~~

23 ~~[(i) to verify the accuracy of personal~~  
24 ~~information submitted by the individual to the business or the~~  
25 ~~agent of the business; and~~

26 ~~[(ii) if the information is not correct, to~~  
27 ~~obtain the correct information, for the sole purpose of preventing~~

1 ~~fraud by, pursuing a legal remedy against, or recovering on a debt~~  
2 ~~or security interest against the individual;~~

3 ~~(D)~~ use in conjunction with a civil, criminal,  
4 administrative, or arbitral proceeding in any court or government  
5 agency or before any self-regulatory body, including service of  
6 process, investigation in anticipation of litigation, execution or  
7 enforcement of a judgment or order, or under an order of any court;

8 (D) ~~(E)~~ use in research or in producing  
9 statistical reports, but only if the personal information is not  
10 published, redisclosed, or used to contact any individual;

11 (E) ~~(F)~~ use by an insurer, ~~or~~ insurance  
12 support organization, or ~~by a~~ self-insured entity, or an  
13 authorized agent of an insurer, insurance support organization, or  
14 self-insured entity ~~[the entity]~~, in connection with claims  
15 processing or investigation activities, antifraud activities,  
16 rating, or underwriting;

17 (F) ~~(G)~~ use in providing notice to an owner of  
18 a vehicle that was towed or impounded and is in the possession of a  
19 vehicle storage facility;

20 (G) ~~(H)~~ use by a licensed private investigator  
21 agency or licensed security service for a purpose permitted under  
22 this section;

23 (H) ~~(I)~~ use by an employer or an agent or  
24 insurer of the employer to obtain or verify information relating to  
25 a holder of a commercial driver's license that is required under 49  
26 U.S.C. Chapter 313;

27 (I) ~~(J)~~ use in connection with the operation of

1 a type of transportation project described by Section 370.003  
2 [private toll transportation facility];

3 (J) [~~(K)~~] use by a consumer reporting agency, as  
4 defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et  
5 seq.), for a purpose permitted under that Act;

6 (K) use by a motor vehicle manufacturer,  
7 dealership, or distributor, or an agent of a motor vehicle  
8 manufacturer, dealership, or distributor, for motor vehicle market  
9 research activities, including survey research; or

10 (L) if the information is obtained from the Texas  
11 Department of Motor Vehicles in connection with individual  
12 transactions, use in the ordinary course of business by a person or  
13 authorized agent of a person who:

14 (i) holds a salvage vehicle dealer license  
15 issued under Chapter 2302, Occupations Code;

16 (ii) holds an independent motor vehicle  
17 dealer or wholesale motor vehicle auction general distinguishing  
18 number issued under Chapter 503 of this code;

19 (iii) holds a used automotive parts  
20 recycler license issued under Chapter 2309, Occupations Code; or

21 (iv) is licensed by, registered with, or  
22 subject to regulatory oversight by the Texas Department of Motor  
23 Vehicles, the Texas Department of Banking, the Department of  
24 Savings and Mortgage Lending, the Credit Union Department, the  
25 Office of Consumer Credit Commissioner, the Texas Department of  
26 Insurance, the Board of Governors of the Federal Reserve System,  
27 the Office of the Comptroller of the Currency, the Federal Deposit

1 Insurance Corporation, or the National Credit Union Administration  
2 [(L) use for any other purpose specifically  
3 authorized by law that relates to the operation of a motor vehicle  
4 or to public safety].

5 (b-1) Any agency may disclose personal information  
6 requested under Subsection (a)(2)(D) only in the form of an  
7 aggregate report.

8 SECTION 10. Chapter 730, Transportation Code, is amended by  
9 adding Sections 730.0121, 730.0122, and 730.0123 to read as  
10 follows:

11 Sec. 730.0121. DELETION OF INFORMATION REQUIRED IF NOT  
12 AUTHORIZED RECIPIENT. An agency by rule shall require a requestor  
13 to delete from the requestor's records personal information  
14 received from the agency under this chapter if the requestor  
15 becomes aware that the requestor is not an authorized recipient of  
16 that information.

17 Sec. 730.0122. SALE PROHIBITED. (a) A person may not sell  
18 to a person who is not an authorized recipient personal information  
19 obtained by an agency in connection with a motor vehicle record.

20 (b) A person commits an offense if the person violates  
21 Subsection (a). An offense under this subsection is a misdemeanor  
22 punishable by a fine not to exceed \$100,000.

23 Sec. 730.0123. CIVIL SUIT. (a) A person who sells to a  
24 person who is not an authorized recipient personal information  
25 obtained by an agency in connection with a motor vehicle record is  
26 liable to the person who is the subject of the information for:

27 (1) actual damages;

1           (2) if the actual damages to the person are less than  
2 \$2,500, an additional amount so that the total amount of damages  
3 equals \$2,500; and

4           (3) court costs incurred by the person who is the  
5 subject of the information in bringing the action.

6           (b) A person whose personal information has been sold to a  
7 person who is not an authorized recipient may sue for:

8           (1) the damages, costs, and fees authorized under  
9 Subsection (a);

10           (2) injunctive relief; and

11           (3) any other equitable remedy determined to be  
12 appropriate by the court.

13           (c) A district court has exclusive original jurisdiction  
14 over a cause of action brought under this section.

15           SECTION 11. Section 730.013, Transportation Code, is  
16 amended to read as follows:

17           Sec. 730.013. [~~RESALE OR~~] REDISCLOSURE; OFFENSE. (a) An  
18 authorized recipient of personal information may not [~~resell or~~]  
19 redisclose the personal information in the identical or a  
20 substantially identical format the personal information was  
21 disclosed to the recipient by the applicable agency.

22           (b) An authorized recipient of personal information may  
23 [~~resell or~~] redisclose the information only for a use permitted  
24 under Section 730.007.

25           (c) An [~~Any~~] authorized recipient who [~~resells or~~]  
26 rediscloses personal information obtained from an agency shall be  
27 required by that agency to:

1 (1) maintain for a period of not less than five years  
2 records as to any person or entity receiving that information and  
3 the permitted use for which it was obtained; and

4 (2) provide copies of those records to the agency on  
5 request.

6 (c-1) A person who receives personal information from an  
7 authorized recipient may not redisclose the personal information to  
8 a person who is not an authorized recipient.

9 (c-2) An authorized recipient shall notify each person who  
10 receives personal information from the authorized recipient that  
11 the person may not redisclose the personal information to a person  
12 who is not an authorized recipient.

13 (d) A person commits an offense if the person violates this  
14 section. An offense under this subsection is a misdemeanor  
15 punishable by a fine not to exceed \$100,000 per record of personal  
16 information that is a subject of the violation [~~\$25,000~~].

17 SECTION 12. The heading to Section 730.014, Transportation  
18 Code, is amended to read as follows:

19 Sec. 730.014. AGENCY RULES, ~~[, ORGANIZATION OF]~~ RECORDS, AND  
20 CONTRACTS.

21 SECTION 13. Section 730.014, Transportation Code, is  
22 amended by adding Subsections (c), (d), and (e) to read as follows:

23 (c) An agency that provides a requestor access to motor  
24 vehicle records in bulk under a contract under Section 730.007  
25 shall include in the contract:

26 (1) a requirement that the requestor post a  
27 performance bond in an amount of not more than \$5 million;

1           (2) a prohibition on the sale or redisclosure of the  
2 personal information for the purpose of marketing extended vehicle  
3 warranties by telephone;

4           (3) a requirement that the requestor provide proof of  
5 general liability and cyber-threat insurance coverage in an amount  
6 specified by the contracting agency that is:

7                   (A) at least \$3 million; and

8                   (B) reasonably related to the risks associated  
9 with unauthorized access and use of the records;

10           (4) a requirement that if a requestor experiences a  
11 breach of system security, as defined by Section 521.053, Business  
12 & Commerce Code, that includes data obtained under Section 730.007,  
13 the requestor must notify the agency of the breach not later than 48  
14 hours after the discovery of the breach;

15           (5) a requirement that the requestor include in each  
16 contract with a third party that receives the records from the  
17 requestor that the third party must comply with federal and state  
18 laws regarding the records;

19           (6) a requirement that the requestor and any third  
20 party receiving the records from the requestor protect the records  
21 with appropriate and accepted industry standard security measures  
22 for the type of record and the known risks from unauthorized access  
23 and use of the records; and

24           (7) a requirement that the requestor annually provide  
25 to the agency a report of all third parties to which the records  
26 were disclosed under this section and the purpose of the  
27 disclosure.

1        (d) An agency that discloses any motor vehicle records in  
2 bulk under Section 730.007 shall include in the records at least two  
3 records that are created solely for the purpose of monitoring  
4 compliance with this chapter and detecting, by receipt of certain  
5 forms of communications or actions directed at the subjects of the  
6 created records, potential violations of this chapter or contract  
7 terms required by this section.

8        (e) An agency that discloses motor vehicle records shall  
9 designate a person responsible for:

10            (1) monitoring compliance with this chapter and  
11 contract terms required by this section; and

12            (2) recommending or implementing agency enforcement  
13 remedies for violations of this chapter or breach of a contract  
14 described by this section.

15        SECTION 14. The heading to Section 730.016, Transportation  
16 Code, is amended to read as follows:

17        Sec. 730.016. INELIGIBILITY OF CERTAIN PERSONS TO RECEIVE,  
18 RETAIN, OR REDISCLOSE PERSONAL INFORMATION; OFFENSE.

19        SECTION 15. Section 730.016, Transportation Code, is  
20 amended by amending Subsection (a) and adding Subsection (c) to  
21 read as follows:

22        (a) A person who is convicted of an offense under this  
23 chapter, or who violates a rule adopted by an agency relating to the  
24 terms or conditions for a release of personal information to the  
25 person:

26            (1) [7] is ineligible to receive personal information  
27 under Section 730.007;

1           (2) not later than one year after the date of  
2 conviction or of the agency's final determination of a rule  
3 violation, shall delete from the person's records all personal  
4 information received under this chapter; and

5           (3) may not redisclose personal information received  
6 under this chapter.

7           (c) A person commits an offense if the person violates this  
8 section. An offense under this subsection is a misdemeanor  
9 punishable by a fine not to exceed \$100,000 per record of personal  
10 information that is a subject of the violation.

11           SECTION 16. The following provisions are repealed:

12                   (1) Section 11.030(d), Parks and Wildlife Code; and

13                   (2) Sections 204.011(c) and (d), Transportation Code.

14           SECTION 17. The changes in law made by this Act apply only  
15 to an offense committed on or after the effective date of this Act.  
16 An offense committed before the effective date of this Act is  
17 governed by the law in effect on the date the offense was committed,  
18 and the former law is continued in effect for that purpose. For  
19 purposes of this section, an offense was committed before the  
20 effective date of this Act if any element of the offense occurred  
21 before that date.

22           SECTION 18. (a) Section 730.0121, Transportation Code, as  
23 added by this Act, applies to a person who received personal  
24 information under Chapter 730, Transportation Code, before the  
25 effective date of this Act, and is not an authorized recipient of  
26 that personal information under Chapter 730, Transportation Code,  
27 as amended by this Act.

1           (b) Notwithstanding Subsection (a) of this section, an  
2 agency to which Section 730.0121, Transportation Code, as added by  
3 this Act, applies may not require a person who received personal  
4 information from the agency before the effective date of this Act  
5 and is not an authorized recipient, as defined by Section  
6 730.003(1-b), Transportation Code, as added by this Act, of that  
7 information to delete the information before the first anniversary  
8 of the effective date of this Act.

9           SECTION 19. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2021.